

Fwd: Phone call from Bill Collins - NYS Assembly  
Nancy Groenwegen  
to:  
John Dalton  
03/27/2012 05:49 PM  
Show Details

Remind me to tell what this was about. Rostow-like involving the Assembly

Begin forwarded message:

**From:** "Victoria Wilson" <[VWilson@osc.state.ny.us](mailto:VWilson@osc.state.ny.us)>  
**Date:** March 27, 2012 3:12:05 PM EDT  
**To:** "Nancy Groenwegen" <[NGroenwegen@osc.state.ny.us](mailto:NGroenwegen@osc.state.ny.us)>  
**Subject:** Phone call from Bill Collins - NYS Assembly

(518) 455-4191

Victoria Wilson  
NYS Office of the State Comptroller  
[vwilson@osc.state.ny.us](mailto:vwilson@osc.state.ny.us)  
(518) 474-5242

THIRD DRAFT SETTLEMENT AGREEMENT

William Collins

to:

'Arlene Smoler', NGroenwegen, jdalton

05/30/2012 03:13 PM

Cc:

""James Yates"", ""Carolyn Kearns""

Show Details

Arlene, Nancy and John,

Attached is my third effort at getting this thing right. I hope it works - at least, as our initial position. We have not shared this with complainants' counsel yet so, it may be that we'll have these folks on our payroll until the end of the payroll period (6/6/12) as we try to work the language out. we will certainly run any material change by you before we agree to it.

Thank you all for your help, Bill

RE: THIRD DRAFT SETTLEMENT AGREEMENT

William Collins

to:

'William Collins', 'Arlene Smoler', 'NGroenwegen, jdalton

05/30/2012 03:14 PM

Cc:

'James Yates', 'Carolyn Kearns'

Show Details

AGAIN, no freakin' attachment (I am starting to feel brain-dead!!)

**From:** William Collins [<mailto:collinw@assembly.state.ny.us>]

**Sent:** Wednesday, May 30, 2012 3:13 PM

**To:** 'Arlene Smoler'; 'NGroenwegen@osc.state.ny.us'; 'jdalton@osc.state.ny.us'

**Cc:** 'James Yates'; 'Carolyn Kearns'

**Subject:** THIRD DRAFT SETTLEMENT AGREEMENT

Arlene, Nancy and John,

Attached is my third effort at getting this thing right. I hope it works - at least, as our initial position. We have not shared this with complainants' counsel yet so, it may be that we'll have these folks on our payroll until the end of the payroll period (6/6/12) as we try to work the language out. we will certainly run any material change by you before we agree to it.

Thank you all for your help, Bill

### THIRD DRAFT SETTLEMENT AGREEMENT

THIS AGREEMENT, made by and between the following parties: the New York State Assembly (or, "Assembly") and Member of Assembly Vito Lopez; [REDACTED] residing at [REDACTED] and [REDACTED] residing at [REDACTED] (who may, hereinafter, be referred to collectively as the "Employees"); and Cuti Hecker Wang, LLP, and Allred Maroko & Goldberg (who may, hereinafter, be referred to collectively the "Law Firms").

WHEREAS, a dispute has arisen concerning the employment of the Employees in the office of the Member of Assembly Vito Lopez and,

WHEREAS, the parties desire to resolve this matter without resort to litigation or any administrative proceeding of any sort, have had all of the terms and conditions of this Agreement clearly explained, and now freely consent to enter this Agreement, such consent not having been induced by fraud, duress or any other undue influence;

NOW, THEREFORE, it is agreed between the New York State Assembly, Member of Assembly Vito Lopez, the Employees, and the Law Firms, individually and collectively, that:

1. The New York State Assembly will pay to the law firm of Cuti Hecker Wang LLP a lump sum of one hundred three thousand, eighty dollars (\$103,080), as soon as is reasonably possible, for distribution as prescribed by the terms of this Agreement.
2. Member of Assembly Vito Lopez will pay to the law firm of Cuti Hecker Wang LLP a lump sum of thirty-two thousand dollars (\$32,000), as soon as is reasonably possible, for distribution as prescribed by the terms of this Agreement.
3. Upon signing and execution of this Agreement by each of the Employees, each shall also sign and execute the respective Releases attached hereto as Exhibits "A" and "B". Such Releases shall be held in escrow by the law firm of Cuti Hecker Wang LLP until payment of the amounts prescribed by paragraphs 1 and 2 of this Agreement have been made.
4. Upon receipt of the payments identified in paragraphs 1 and 2 of this Agreement, Cuti Hecker Wang LLP unconditionally agrees to immediately

deliver to the New York State Assembly the original, signed Releases held in escrow by them pursuant to the provisions of paragraph 3 of this Agreement. Cuti Hecker Wang LLP further agrees that there shall be no distribution or retention of any funds pursuant to paragraphs 5, 6, 7 and 8 of this Agreement until such time as both Releases are delivered to the New York State Assembly.

5. From the amounts identified in paragraphs 1 and 2 of this Agreement, a total amount of sixty thousand, seven hundred and eighty-six dollars (\$60,786) shall be paid to [REDACTED] for alleged damages for pain and suffering in lieu of any other form of compensation in complete resolution of this dispute including but not limited to any form of wages, benefits or other potential frontpay or backpay liability. The payment of this amount is to be allocated between the New York State Assembly and Member of Assembly Vito Lopez as follows: from the amount paid pursuant to paragraph 1 of this Agreement, [REDACTED] shall be paid forty-six thousand three hundred and eighty-six dollars (\$46,386), and from the amount paid pursuant to paragraph 2 of this Agreement, [REDACTED] shall be paid fourteen thousand, four hundred dollars (\$14,400).
6. From the amounts identified in paragraphs 1 and 2 of this Agreement, a total amount of twenty thousand, two hundred and sixty-two dollars (\$20,262) shall be paid to [REDACTED] for alleged damages for pain and suffering in lieu of any other form of compensation in complete resolution of this dispute including but not limited to any form of wages, benefits or other potential frontpay or backpay liability. The payment of this amount is to be allocated between the New York State Assembly and Member of Assembly Vito Lopez as follows: from the amount paid pursuant to paragraph 1 of this Agreement, [REDACTED] shall be paid fifteen thousand four hundred and sixty-two dollars (\$15,462), and from the amount paid pursuant to paragraph 2 of this Agreement, [REDACTED] shall be paid four thousand, eight hundred dollars (\$4,800).
7. From the amounts identified in paragraphs 1 and 2 of this Agreement, the law firm of Cuti Hecker Wang LLP shall retain a total amount of twenty-seven thousand, six hundred and sixteen dollars (\$27,016) in complete resolution of any and all attorney fee obligations or liabilities in relation to any legal work performed in their representation, individually or collectively, of the Employees in relation to this dispute. The payment of this amount is to be allocated between the New York State Assembly and Member of Assembly Vito Lopez as follows: from the amount paid pursuant to paragraph 1 of this Agreement, Cuti Hecker Wang LLP shall retain the amount of twenty thousand six hundred and sixteen dollars (\$20,616), and

from the amount paid pursuant to paragraph 2 of this Agreement, Cuti Hecker Wang, LLP shall retain the amount of six thousand, four hundred dollars (\$6,400).

8. From the amounts identified in paragraphs 1 and 2 of this Agreement, the law firm of Allred Maroko & Goldberg shall be paid a total amount of twenty-seven thousand, six hundred and sixteen dollars (\$27,016) in complete resolution of any and all attorney fee obligations or liabilities in relation to any legal work performed in their representation, individually or collectively, of the Employees in relation to this dispute. The payment of this amount is to be allocated between the New York State Assembly and Member of Assembly Vito Lopez as follows: from the amount paid pursuant to paragraph 1 of this Agreement, Allred Maroko & Goldberg shall be paid the amount of twenty thousand six hundred and sixteen dollars (\$20,616), and from the amount paid pursuant to paragraph 2 of this Agreement, Allred Maroko & Goldberg shall be paid the amount of six thousand, four hundred dollars (\$6,400).
9. The Employees and Law Firms agree to indemnify the New York State Assembly and/or Member of Assembly Vito Lopez and hold them harmless from any and all taxes, penalties, and interest imposed and any and all expenses incurred due to lack of withholding from the payments made and received pursuant to paragraphs 5,6,7 or 8 of this Agreement
10. The tender and acceptance of employment by each of the Employees with the New York State Assembly during the period January 1, 2012 through May 31, 2012 and payment of wages and all benefits of employment to each of the Employees during such period shall be deemed as a portion of the consideration received by them in the settlement evidenced by this Agreement.
11. Both [REDACTED] and [REDACTED] will resign from New York State Assembly employment effective close of business May 31, 2012 by submitting separate irrevocable letters of resignation using the language specified in Exhibit "E". No further salary or other benefits of employment with the New York State Assembly shall be due, owed, or paid to either of the Employees except as payments of any sort earned for services provided during the period January 1, 2012 through May 31, 2012. Each of the Employees agrees not to reapply for future employment in any offices of the New York State Assembly or any Member thereof.
12. Upon delivery to the New York State Assembly of a signed and notarized copy of the Release in Exhibit "A", [REDACTED] will receive the attached "to whom it may concern", generic positive recommendation (Exhibit "C") concerning the performance of her tasks and duties assigned to her during

her Assembly employment. In accordance with Assembly practice, inquiries from any potential employer, potential landlord, potential creditor, or other such person or entity will receive a response indicating [REDACTED] voluntary resignation, last job title, duration of Assembly employment, and annual salary.

13. Upon delivery to the New York State Assembly of a signed and notarized copy of the Release in Exhibit "B", [REDACTED] will receive the attached "to whom it may concern", generic positive recommendation (Exhibit "D") concerning the performance of her tasks and duties assigned to her during her Assembly employment. In accordance with Assembly practice, inquiries from any potential employer, potential landlord, potential creditor, or other such person or entity will receive a response indicating [REDACTED] voluntary resignation, last job title, duration of Assembly employment, and annual salary.
14. Member of Assembly Vito Lopez and the staff of the office of Member of Assembly Vito Lopez will, within 90 days of the execution of this Agreement receive supplementary instruction – in addition to that which is biennially provided to Members of the Assembly and staff – concerning the Assembly Affirmative Action Policy, the Assembly Sexual Harassment/Retaliation Policy, and identification and avoidance of sex discrimination and sexual harassment in the workplace. This training may be conducted in separate sessions.
15. Except in response to a court order or in response to a valid subpoena, neither any party to this Agreement, nor any representative, heir, assign or other person affiliated with any party to this Agreement will discuss or make any statement of any sort concerning the underlying circumstances of the dispute which has given rise to this Agreement or any terms of this Agreement with any other person or entity.
16. The Employees hereby agree, individually and collectively, that they shall not communicate or publish, or cause to be communicated or published, any disparaging remarks, comments or statements in any form concerning any aspect, circumstance or incident involving their employment in the office of Member of Assembly Vito Lopez or any office(s) of the New York State Assembly.
17. Each of the Employees and their representatives agree that the New York State Assembly shall be entitled to liquidated damages of ten thousand dollars (\$10,000) or actual damages, whichever is greater, from the person or entity breaching the terms of paragraph 15 or 16 of this Agreement for each breach of such terms, and any breach of paragraphs 15 or 16 of this

Agreement by either Employee or their representative shall be considered a material breach.

18. Any claim, action, suit or other dispute relating to any terms of this Agreement or the Releases entered into pursuant to this Agreement shall be commenced in the City of New York and governed by the provisions of the laws of the State of New York.
19. Any document required by this Agreement to be delivered to the New York State Assembly shall be delivered to William F. Collins, Counsel to the Majority, New York State assembly, Room 448M, Capitol, Albany, New York 12248; e-mail [collinsw@assembly.state.ny.us](mailto:collinsw@assembly.state.ny.us); and/or telefax 518-455-4103.
20. The Employees hereby expressly acknowledge, individually and collectively, that they are signing this Agreement knowingly and voluntarily and upon the advice of the Law Firms by which they are and have been represented.
21. This Agreement may be signed in counterparts and any telefaxed or electronically transmitted signed copy of this Agreement will be equally as valid for all purposes as an original signed copy.
22. Nothing contained herein shall be deemed to imply or to constitute an admission of any sort that any party to this Agreement acted improperly or unlawfully.
23. The parties shall take such other and further steps as are necessary to implement the terms of this Agreement including, but not limited to, the approval of the Office of the State Comptroller.

IN WITNESS WHEREOF, the parties and their representatives have hereunto set their hands.

\_\_\_\_\_

Date:

NEW YORK STATE ASSEMBLY

By: \_\_\_\_\_  
(Print Name)

TITLE: Counsel to the Majority

\_\_\_\_\_

Date:

Date:



CUTTI HECKER WANG LLP

MEMBER OF ASSEMBLY VITO LOPEZ

By: \_\_\_\_\_  
(Print Name)

Date:

Date:

ALLRED MAROKO & GOLDBERG

By: \_\_\_\_\_

Date:

Exhibit "A"

RELEASE

██████████, residing at \_\_\_\_\_, on behalf of herself, her heirs, estate, executors, administrators, successors and assigns, in consideration of receipt of the lump sum of sixty thousand, seven hundred and eighty-six dollars (\$60,786) received, in toto, from the New York State Assembly and Member of Assembly Vito Lopez collectively, and in consideration of the other promises and covenants set forth in the attached Agreement releases and discharges the State of New York and Member of Assembly Vito Lopez from any and all actions, causes of action, suits, agreements, promises, damages, judgment, complaints, claims and demands

under Title VII of the Civil Rights Act of 1964, the New York State Executive Law, or the New York City Human Rights Act including but not limited to claims for gender, sex, race, age, religious and any other protected characteristics, sexual harassment, retaliation as well as any other actions, causes of action, suits, agreements, promises, damages, judgment, complaints, and demands of any sort under any other statutes, contract or tort law in law or equity, whether arising under the laws of the State of New York or any other jurisdiction, arising out of or relating to the employment of [REDACTED] by the Assembly of the State of New York and/or Member of Assembly Vito Lopez.

IN WITNESS WHEREOF, [REDACTED] has hereunto set her hand on this \_\_\_\_ day of \_\_\_\_, 2012.

STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

On the \_\_\_\_ day of \_\_\_\_\_, 2012, before me personally came [REDACTED] to me known, and known to me to be the individual described in, and who executed the foregoing Release, and duly acknowledged to me that she executed the same.

Exhibit "B".

RELEASE

[REDACTED], residing at \_\_\_\_\_, on behalf of herself, her heirs, estate, executors, administrators, successors and assigns, in consideration of receipt of the lump sum of fifteen thousand, four hundred and sixty-two dollars (\$15,462)

received, in toto, from the New York State Assembly and Member of Assembly Vito Lopez collectively, and in consideration of the other promises and covenants set forth in the attached Agreement releases and discharges the State of New York and Member of Assembly Vito Lopez from any and all actions, causes of action, suits, agreements, promises, damages, judgment, complaints, claims and demands under Title VII of the Civil Rights Act of 1964, the New York State Executive Law, or the New York City Human Rights Act including but not limited to claims for gender, sex, race, age, religious and any other protected characteristics, sexual harassment, retaliation as well as any other actions, causes of action, suits, agreements, promises, damages, judgment, complaints, and demands of any sort under any other statutes, contract or tort law in law or equity, whether arising under the laws of the State of New York or any other jurisdiction, arising out of or relating to the employment of [REDACTED] by the New York State Assembly and/or Member of Assembly Vito Lopez.

IN WITNESS WHEREOF, [REDACTED] has hereunto set her hand on this \_\_\_\_ day of \_\_\_\_, 2012.

[REDACTED]

STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

On the \_\_\_\_ day of \_\_\_\_\_, 2012, before me personally came [REDACTED] to me known, and known to me to be the individual described in, and who executed the foregoing Release, and duly acknowledged to me that she executed the same.

[REDACTED]

EXHIBITS "C" and "D" positive recommendation letters to be drafted.

EXHIBIT "E" :

Ms. Suzanne Gold  
Director of Human Resources  
New York State Assembly  
Concourse, Room 104  
Albany, New York 12248

Dear Ms. Gold:

Effective close of business on May 31, 2012, I hereby voluntarily resign my position with the New York State Assembly.

Very truly yours,



Fw: SECOND draft settlement agreement  
Nancy Groenwegen to: John Dalton

05/30/2012 01:19 PM

Please let me know ASAP if you see any OSC payment problem with this agreement. Thanks.

Nancy G. Groenwegen  
Counsel to the Comptroller  
110 State Street  
Albany, NY 12236-001  
518-474-3444  
ngroenwegen@osc.state.ny.us

----- Forwarded by Nancy Groenwegen/LEGAL/NYSOSC on 05/30/2012 01:18 PM -----

From: "William Collins" <collinsw@assembly.state.ny.us>  
To: "Arlene Smoler" <Arlene.Smoler@ag.ny.gov>, <NGroenwegen@osc.state.ny.us>  
Cc: "Carolyn Kearns" <kearnsc@assembly.state.ny.us>, "James Yates" <yatesj@assembly.state.ny.us>  
Date: 05/30/2012 01:01 PM  
Subject: RE: SECOND draft settlement agreement

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No, you are accurately assessing that I frequently forget to "attach" attachments. How about this time?

From: Arlene Smoler [mailto:Arlene.Smoler@ag.ny.gov]  
Sent: Wednesday, May 30, 2012 12:49 PM  
To: 'William Collins'; NGroenwegen@osc.state.ny.us  
Cc: 'Carolyn Kearns'; 'James Yates'  
Subject: RE: SECOND draft settlement agreement

Bill- I don't see an attachment of the SECOND draft. Am I missing something?

Arlene

From: William Collins [mailto:collinsw@assembly.state.ny.us]  
Sent: Wednesday, May 30, 2012 12:08 PM  
To: Arlene Smoler; NGroenwegen@osc.state.ny.us  
Cc: 'Carolyn Kearns'; 'James Yates'  
Subject: SECOND draft settlement agreement

Arlene and Nancy,

I have received recommended changes from Assemblyman Lopez' counsels and our outside employment law consultant and amended our draft accordingly. This has not been shared with complainants counsels. If you have time (we probably will end up keeping these two folks on until the end of the payroll period - 6/6/12 - as we negotiate the terms), we'd appreciate your identification of anything you see as particularly problematic.

## DRAFT SETTLEMENT AGREEMENT

THIS AGREEMENT, made by and between the following parties: the New York State Assembly (or, "Assembly") and Member of Assembly Vito Lopez (who may, hereinafter, be referred to collectively as the "Employer"); [REDACTED] residing at [REDACTED] and [REDACTED] residing at [REDACTED] (who may, hereinafter, be referred to collectively as the "Employees"); and Cuti Hecker Wang, LLP, and Allred Maroko & Goldberg (who may, hereinafter, be referred to collectively the "Law Firms").

WHEREAS, a dispute has arisen concerning the employment of the Employees in the office of the Member of Assembly Vito Lopez and,

WHEREAS, the parties desire to resolve this matter without resort to litigation or any administrative proceeding of any sort;

NOW, THEREFORE, it is agreed between the Employer and the Employees, individually and collectively, that:

1. The New York State Assembly will pay to the law firm of Cuti Hecker Wang LLP a lump sum of one hundred three thousand, eighty dollars (\$103,080), as soon as is reasonably possible, for distribution as prescribed by the terms of this Agreement.
2. Member of Assembly Vito Lopez will pay to the law firm of Cuti Hecker Wang LLP a lump sum of thirty-two thousand dollars (\$32,000), as soon as is reasonably possible, for distribution as prescribed by the terms of this Agreement.
3. Upon signing and execution of this Agreement by each of the Employees, each shall also sign and execute the respective Releases attached hereto as Exhibits "A" and "B". Such Releases shall be held in escrow by the law firm of Cuti Hecker Wang LLP until payment of the amounts prescribed by paragraphs 1 and 2 of this Agreement have been made.
4. Upon receipt of the payments identified in paragraphs 1 and 2 of this Agreement, Cuti Hecker Wang LLP unconditionally agrees to immediately deliver to the New York State Assembly the original, signed Releases held in escrow by them pursuant to the provisions of paragraph 3 of this Agreement. Cuti Hecker Wang LLP further agrees that there shall be no distribution or retention of any funds pursuant to paragraphs 5, 6, 7 and 8 of

this Agreement until such time as both Releases are delivered to the New York State Assembly.

5. From the amounts identified in paragraphs 1 and 2 of this Agreement, a total amount of sixty thousand, seven hundred and eighty-six dollars (\$60,786) shall be paid to [REDACTED] as damages in lieu of any other form of compensation in complete resolution of this dispute including but not limited to any form of wages, benefits or other potential frontpay or backpay liability. The payment of this amount is to be allocated between the New York State Assembly and Member of Assembly Vito Lopez as follows: from the amount paid pursuant to paragraph 1 of this Agreement, [REDACTED] shall be paid forty-six thousand three hundred and eighty-six dollars (\$46,386), and from the amount paid pursuant to paragraph 2 of this Agreement, [REDACTED] shall be paid fourteen thousand, four hundred dollars (\$14,400).
6. From the amounts identified in paragraphs 1 and 2 of this Agreement, a total amount of twenty thousand, two hundred and sixty-two dollars (\$20,262) shall be paid to [REDACTED] as damages in lieu of any other form of compensation in complete resolution of this dispute including but not limited to any form of wages, benefits or other potential frontpay or backpay liability. The payment of this amount is to be allocated between the New York State Assembly and Member of Assembly Vito Lopez as follows: from the amount paid pursuant to paragraph 1 of this Agreement, [REDACTED] shall be paid fifteen thousand four hundred and sixty-two dollars (\$15,462), and from the amount paid pursuant to paragraph 2 of this Agreement, [REDACTED] shall be paid four thousand, eight hundred dollars (\$4,800).
7. From the amounts identified in paragraphs 1 and 2 of this Agreement, the law firm of Cuti Hecker Wang LLP shall retain a total amount of twenty-seven thousand, six hundred and sixteen dollars (\$27,016) in complete resolution of any and all attorney fee obligations or liabilities in relation to any legal work performed in their representation, individually or collectively, of the Employees in relation to this dispute. The payment of this amount is to be allocated between the New York State Assembly and Member of Assembly Vito Lopez as follows: from the amount paid pursuant to paragraph 1 of this Agreement, Cuti Hecker Wang LLP shall retain the amount of twenty thousand six hundred and sixteen dollars (\$20,616), and from the amount paid pursuant to paragraph 2 of this Agreement, Cuti Hecker Wang, LLP shall retain the amount of six thousand, four hundred dollars (\$6,400).
8. From the amounts identified in paragraphs 1 and 2 of this Agreement, the law firm of Allred Maroko & Goldberg shall be paid a total amount of

twenty-seven thousand, six hundred and sixteen dollars (\$27,016) in complete resolution of any and all attorney fee obligations or liabilities in relation to any legal work performed in their representation, individually or collectively, of the Employees in relation to this dispute. The payment of this amount is to be allocated between the New York State Assembly and Member of Assembly Vito Lopez as follows: from the amount paid pursuant to paragraph 1 of this Agreement, Allred Maroko & Goldberg shall be paid the amount of twenty thousand six hundred and sixteen dollars (\$20,616), and from the amount paid pursuant to paragraph 2 of this Agreement, Allred Maroko & Goldberg shall be paid the amount of six thousand, four hundred dollars (\$6,400).

9. The Employer is not responsible for and shall be indemnified against any and all federal, state or local tax liabilities accruing to any of the Employees or Law Firms in relation to receipt of monies pursuant to paragraphs 5, 6, 7 or 8 of this Agreement.
10. The tender and acceptance of employment by each of the Employees with the New York State Assembly during the period January 1, 2012 through May 31, 2012 and payment of wages and all benefits of employment to each of the Employees during such period shall be deemed as a portion of the consideration received by them in the settlement evidenced by this Agreement.
11. Both [REDACTED] and [REDACTED] will resign from New York State Assembly employment effective close of business May 31, 2012. No further salary or other benefits of employment with the New York State Assembly shall be due, owed, or paid to either of the Employees except as payments of any sort earned for services provided during the period January 1, 2012 through May 31, 2012. Each of the Employees agrees not to reapply for future employment in any offices of the New York State Assembly or any Member thereof.
12. Upon execution of this Agreement, [REDACTED] will receive the attached "to whom it may concern", generic positive recommendation (Exhibit "C") concerning the performance of her tasks and duties assigned to her during her Assembly employment. In accordance with Assembly practice, inquiries from any potential employer, potential landlord, potential creditor, or other such person or entity will receive a response indicating [REDACTED]'s last job title, duration of Assembly employment, and annual salary.
13. Upon execution of this Agreement, [REDACTED] will receive the attached "to whom it may concern", generic positive recommendation (Exhibit "D") concerning the performance of her tasks and duties assigned to her during her Assembly employment. In accordance with Assembly practice, inquiries



from any potential employer, potential landlord, potential creditor, or other such person or entity will receive a response indicating [REDACTED]'s last job title, duration of Assembly employment, and annual salary.

14. Member of Assembly Vito Lopez and the staff of the office of Member of Assembly Vito Lopez will, within 90 days of the execution of this Agreement receive supplementary instruction – in addition to that which is biennially provided to Members of the Assembly and staff – concerning the Assembly Affirmative Action Policy, the Assembly Sexual Harassment/Retaliation Policy, and identification and avoidance of sex discrimination and sexual harassment in the workplace. A record concerning the dates and nature of this training shall be created and maintained by the New York State Assembly. This training may be conducted in separate sessions.
15. Except in response to a court order or in response to a valid subpoena, neither any party to this Agreement, nor any representative, heir, assign or other person affiliated with any party to this Agreement will discuss or make any statement of any sort concerning the underlying circumstances of the dispute which has given rise to this Agreement or any terms of this Agreement with any other person or entity. Each of the Employees and their representatives agree that the Employer shall be entitled to liquidated damages of ten thousand dollars (\$10,000) or actual damages, whichever is greater, from the person or entity breaching the terms of paragraph 15 or 16 of this Agreement for each breach of this paragraph, and any breach of paragraphs 15 or 16 of this Agreement by either Employee or their representative shall be considered a material breach.
16. The Employees hereby agree, individually and collectively, that they shall not communicate or publish, or cause to be communicated or published, any disparaging remarks, comments or statements in any form concerning any aspect, circumstance or incident involving their employment in the office of Member of Assembly Vito Lopez or any office(s) of the New York State Assembly.
17. Each of the Employees and their representatives agree that the Employer shall be entitled to liquidated damages of ten thousand dollars (\$10,000) or actual damages, whichever is greater, from the person or entity breaching the terms of paragraph 15 or 16 of this Agreement for each breach of such terms, and any breach of paragraphs 15 or 16 of this Agreement by either Employee or their representative shall be considered a material breach.
18. Any claim, action, suit or other dispute relating to any terms of this Agreement or the Releases entered into pursuant to this Agreement shall be

commenced in the City of New York and governed by the provisions of the laws of the State of New York.

19. The Employees hereby expressly acknowledge, individually and collectively, that they are signing this Agreement knowingly and voluntarily and upon the advice of the Law Firms by which they are and have been represented.
20. This Agreement may be signed in counterparts and any telefaxed or electronically transmitted signed copy of this Agreement will be equally as valid for all purposes as an original signed copy.
21. Nothing contained herein shall be deemed to imply or to constitute an admission of any sort that any party to this Agreement acted improperly or unlawfully.

IN WITNESS WHEREOF, the parties and their representatives have hereunto set their hands.

\_\_\_\_\_

Date:

NEW YORK STATE ASSEMBLY

By: \_\_\_\_\_  
(Print Name)

TITLE: Counsel to the Majority

\_\_\_\_\_

Date:

Date:

CUTTI HECKER WANG LLP

MEMBER OF ASSEMBLY VITO LOPEZ

By: \_\_\_\_\_  
(Print Name)

Date:

Date:

ALLRED MAROKO & GOLDBERG

By: \_\_\_\_\_

Date: \_\_\_\_\_

Exhibit "A"

**RELEASE**

\_\_\_\_\_, residing at \_\_\_\_\_, on behalf of herself, her heirs, estate, executors, administrators, successors and assigns, in consideration of receipt of the lump sum of sixty thousand, seven hundred and eighty-six dollars (\$60,786) received, in toto, from the New York State Assembly and Member of Assembly Vito Lopez collectively, and in consideration of the other promises and covenants set forth in the attached Agreement releases and discharges the State of New York and Member of Assembly Vito Lopez from any and all actions, causes of action, suits, agreements, promises, damages, judgment, complaints, claims and demands under Title VII of the Civil Rights Act of 1964, the New York State Executive Law, or the New York City Human Rights Act including but not limited to claims for gender, sex, race, age, religious and any other protected characteristics, sexual harassment, retaliation as well as any other actions, causes of action, suits, agreements, promises, damages, judgment, complaints, and demands of any sort under any other statutes, contract or tort law in law or equity, whether arising under the laws of the State of New York or any other jurisdiction, arising out of or relating to the employment of \_\_\_\_\_ by the Assembly of the State of New York and/or Member of Assembly Vito Lopez.

IN WITNESS WHEREOF, \_\_\_\_\_ has hereunto set her hand on this \_\_\_\_ day of \_\_\_\_, 2012.

STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

On the \_\_\_\_ day of \_\_\_\_\_, 2012, before me personally came \_\_\_\_\_, to me known, and known to me to be the individual described in, and who executed the foregoing Release, and duly acknowledged to me that she executed the same.

Exhibit "B"

RELEASE

\_\_\_\_\_, residing at \_\_\_\_\_, on behalf of herself, her heirs, estate, executors, administrators, successors and assigns, in consideration of receipt of the lump sum of fifteen thousand, four hundred and sixty-two dollars (\$15,462) received, in toto, from the New York State Assembly and Member of Assembly Vito Lopez collectively, and in consideration of the other promises and covenants set forth in the attached Agreement releases and discharges the State of New York and Member of Assembly Vito Lopez from any and all actions, causes of action, suits, agreements, promises, damages, judgment, complaints, claims and demands under Title VII of the Civil Rights Act of 1964, the New York State Executive Law, or the New York City Human Rights Act including but not limited to claims for gender, sex, race, age, religious and any other protected characteristics, sexual harassment, retaliation as well as any other actions, causes of action, suits, agreements, promises, damages, judgment, complaints, and demands of any sort under any other statutes, contract or tort law in law or equity, whether arising under the laws of the State of New York or any other jurisdiction, arising out of or

relating to the employment of [REDACTED] by the New York State Assembly  
and/or Member of Assembly Vito Lopez.

IN WITNESS WHEREOF, [REDACTED] has hereunto set her hand on this \_\_\_\_  
day of \_\_\_\_, 2012.

\_\_\_\_\_  
[REDACTED]

STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

On the \_\_\_\_ day of \_\_\_\_\_, 2012, before me personally came [REDACTED], to me  
known, and known to me to be the individual described in, and who executed the  
foregoing Release, and duly acknowledged to me that she executed the same.

\_\_\_\_\_  
[REDACTED]



**Settlement Agreement**  
Mary Anne Tommaney to: collinsw

06/04/2012 10:19 AM

Bill,

Here's the proposed language for the Agreement.



Settlement Agreement.docx

Notice: This communication, including any attachments, is intended solely for the use of the individual or entity to which it is addressed. This communication may contain information that is protected from disclosure under State and/or Federal law. Please notify the sender immediately if you have received this communication in error and delete this email from your system. If you are not the intended recipient, you are requested not to disclose, copy, distribute or take any action in reliance on the contents of this information.

Substitute for paragraph 9

9. The parties agree that the payment to be made to the law firm of Cuti Hecker Wang LLP under paragraph 1 of this Agreement is made in settlement of the Employees' claims for compensatory damages and emotional distress, and pain and suffering claimed by the Employees, and that such payments do not constitute back pay, front pay, or salary and, accordingly, shall not be subject to any payroll taxes or deductions, income withholding taxes, social security taxes, or other taxes which customarily are deducted from and/or paid with respect to wages. In accordance with federal law, the payment to be made under paragraph 1 of this Agreement shall be reported to the law firm of Cuti Hecker Wang LLP on Internal Revenue Service Form 1099. The parties agree that any and all tax liabilities with respect to this payment shall be the sole responsibility of the Employees and the Law Firms.

If, for any reason, it is determined by any federal, state or local authority that the payment provided for in paragraph 1, or any portion thereof, should have been subject to the withholding of taxes, the Employees and the Law Firms agree that they shall assume all responsibility for the payment of any taxes, interest and/or penalties assessed in connection therewith, and that they shall indemnify and hold harmless the Assembly and the State of New York ("the State") from any liability with respect to any withholding obligation or payment of tax, interest, or penalties required to be paid by the Assembly and/or the State. Should the Assembly and/or the State receive any assessment or claim of assessment, the Assembly and/or the State, as applicable, will notify the Employees and the Law Firms in writing within thirty (30) days of their respective receipt of any such assessment or claim of assessment, and the Employees and the Law Firms agree that any payments for which they have assumed responsibility hereunder shall be paid in full within ninety (90) days after their receipt of a demand for payment.

Substitute for paragraph 23

23. The parties shall take such other and further steps as are necessary to implement the terms of this Agreement including, but not limited to, submitting this Agreement to the Office of the State Comptroller for pre-audit, pursuant to the power conferred on the Comptroller by the State Constitution, of the payment required by paragraph 1.

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY  
12248

*Spice to  
J. Dattin*

**RECEIVED**  
GENERAL COUNSEL

JUN 11 2012

OFFICE OF THE STATE COMPTROLLER  
ALBANY

Nancy G. Groenewegen  
Counsel to the Comptroller  
110 State Street  
14th Floor  
Albany, NY 12236





WILLIAM F. COLLINS  
COUNSEL TO THE MAJORITY

TH  
STATE



The Assembly  
State of New York

OFFICE OF  
COUNSEL TO THE MAJORITY

From the Desk of:-  
WILLIAM F. COLLINS

To: John Wellspeak, Director  
William Oak, Director

From: Bill Collins

Subject: Payment pursuant to att

Date: June 7, 2012

*Nancy,*

*I don't know what happens next  
in this process. We finished the deal  
with help, as noted, from John and  
Maryann. I've sent it to our Finance  
folks and I'm hoping this will be  
wrapped up soon.*

*Thanks for your help,*

*Bill*

Two employees in the office retained outside counsel, alleged discrimination in asserted violation. After extensive dialogue and correspondence with employees' retained counsel, we agreed to attempt to achieve a mediated resolution of this dispute. Complainants initially sought damages of \$1.2M. In the course of mediation before a highly experienced mediator, we were given to believe that it was most likely that this matter could be settled at an aggregate amount of between \$250,000 and \$450,000.

Obviously, going into mediation, we felt impelled to assess our potential litigation risks in either administrative or judicial forums. We consulted with knowledgeable employment lawyers within the Office of the Attorney General and in private practice in New York City (the location of the alleged employment issues). We were advised that, given the circumstances as we assessed them to be (pre-discovery), the range of settlement amounts identified above could be a viable risk of any potential adverse judgment amounts if we were unsuccessful in litigation.

During the pendency of our negotiations, both employees were reassigned and remained on the Assembly payroll with actual work responsibilities and different supervisors. This obviated any potential "backpay" liability in the event of an adverse outcome in litigation. In fact, the settlement amounts do not involve wage or salary "compensation" of any sort; i.e., they are neither "backpay" nor



WILLIAM F. COLLINS  
COUNSEL TO THE MAJORITY

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

ROOM 448m, CAPITOL  
ALBANY, NEW YORK 12248  
(518) 455-4191  
FAX: (518) 455-4103

To: John Wellspeak, Director of Administration  
William Oak, Director of Finance

From: Bill Collins

Subject: Payment pursuant to attached Settlement Agreement

Date: June 7, 2012

Two employees in the office of a Member of the Assembly have, by their retained outside counsel, alleged claims of sexual harassment and sex discrimination in asserted violation of certain state and federal employment laws. After extensive dialogue and correspondence between my office and the employees' retained counsel, we agreed to attempt to achieve a mediated resolution of this dispute. Complainants initially sought damages of \$1.2M. In the course of mediation before a highly experienced mediator, we were given to believe that it was most likely that this matter could be settled at an aggregate amount of between \$250,000 and \$450,000.

Obviously, going into mediation, we felt impelled to assess our potential litigation risks in either administrative or judicial forums. We consulted with knowledgeable employment lawyers within the Office of the Attorney General and in private practice in New York City (the location of the alleged employment issues). We were advised that, given the circumstances as we assessed them to be (pre-discovery), the range of settlement amounts identified above could be a viable risk of any potential adverse judgment amounts if we were unsuccessful in litigation.

During the pendency of our negotiations, both employees were reassigned and remained on the Assembly payroll with actual work responsibilities and different supervisors. This obviated any potential "backpay" liability in the event of an adverse outcome in litigation. In fact, the settlement amounts do not involve wage or salary "compensation" of any sort; i.e., they are neither "backpay" nor

"frontpay". The settlement amounts, to be distributed and - to some extent - retained by one of the complainants law firms (Cutti Hecker Wang LLP) are exclusively in the nature of alleged damages for the employees' alleged pain and suffering including emotional distress, and attorneys fees.

In the interest of complete confidentiality of the identity of the Assemblymember and the two former employees, all names (other than mine) have been redacted on the attached Settlement Agreement. Please note that I have personally engaged in discussions with the Counsel's Office of the Office of the State Comptroller and received specific useful advice on particular language of the Settlement Agreement (e.g., paragraphs 10 and 27) from Associate Counsel John Dalton and Assistant Counsel Maryann Tommaney.

The provisions of the Settlement Agreement itself are somewhat complex but, the payment terms are quite straightforward; we are to issue a check in the amount of \$103,080 to the law firm of Cuti Hecker Wang LLP on or before July 18, 2012 simultaneously with the issuance of a check by the Member of the Assembly in the amount of \$32,000. Thereafter, the distributions specified in the Settlement Agreement and all necessary tax forms will be prepared by Cuti Hecker Wang LLP.

Please do not hesitate to contact me if you require any further information in the processing of this payment.

Enclosure

## SETTLEMENT AGREEMENT

THIS AGREEMENT, made by and between the following parties: the New York State Assembly (or, "Assembly") and Member of Assembly [REDACTED] L [REDACTED] and R [REDACTED] (who may, hereinafter, be referred to collectively as the "Employees"); and Cuti Hecker Wang, LLP, and Allred Maroko & Goldberg (who may, hereinafter, be referred to collectively the "Law Firms").

WHEREAS, a dispute has arisen concerning the employment of the Employees in the office of the Member of Assembly [REDACTED] including without limitation Employees' unproven allegations that they were subjected to sex discrimination and retaliation and sexual harassment, which [REDACTED] and the Assembly deny, and,

WHEREAS, the parties desire to resolve this matter without resort to litigation or any administrative proceeding of any sort, have had all of the terms and conditions of this Agreement clearly explained, and now freely consent to enter this Agreement, such consent not having been induced by fraud, duress or any other undue influence;

NOW, THEREFORE, it is agreed between the New York State Assembly, Member of Assembly [REDACTED] the Employees, and the Law Firms, individually and collectively, that:

1. The New York State Assembly will pay to the law firm of Cuti Hecker Wang LLP a lump sum of one hundred three thousand, eighty dollars (\$103,080), as soon as is reasonably possible and no later than twenty business days after Employees provide executed copies of this Agreement to counsel for the New York State Assembly, for distribution as prescribed by the terms of this Agreement.
2. Member of Assembly [REDACTED] will pay to the law firm of Cuti Hecker Wang LLP a lump sum of thirty-two thousand dollars (\$32,000), as soon as is reasonably possible and no later than twenty business days after Employees provide executed copies of this Agreement to counsel for the New York State Assembly, for distribution as prescribed by the terms of this Agreement.

3. Upon signing and execution of this Agreement by each of the Employees, each shall also sign and execute the respective Releases attached hereto as Exhibits "A" and "B". Such Releases shall be held in escrow by the law firm of Cuti Hecker Wang LLP until payment of the amounts prescribed by paragraphs 1 and 2 of this Agreement have been made.
4. Upon signing and execution of this Agreement by [REDACTED] and the New York State Assembly, each shall also sign and execute the respective Releases attached hereto as Exhibits "C" and "D". Such Releases shall be held in escrow by the Counsel for the New York State Assembly until Cuti Hecker Wang LLP provides Employees' releases.
5. Upon receipt of the payments identified in paragraphs 1 and 2 of this Agreement, Cuti Hecker Wang LLP unconditionally agrees to immediately deliver to the New York State Assembly the original, signed Releases held in escrow by them pursuant to the provisions of paragraph 3 of this Agreement. Cuti Hecker Wang LLP further agrees that there shall be no distribution or retention of any funds pursuant to paragraphs 6, 7, 8 and 9 of this Agreement until such time as both Releases are delivered to the New York State Assembly. Upon receipt of the Releases executed by the Employees, the New York State Assembly shall release to Cuti Hecker Wang LLP the original, signed Releases held in escrow by them pursuant to the provisions of paragraph 4 of this Agreement.
6. From the amounts identified in paragraphs 1 and 2 of this Agreement, a total amount of sixty thousand, seven hundred and eighty-six dollars (\$60,786) shall be paid to L [REDACTED] for alleged damages for pain and suffering in lieu of any other form of compensation in complete resolution of this dispute including but not limited to any form of wages, benefits or other potential frontpay or backpay liability. The payment of this amount is to be allocated between the New York State Assembly and Member of Assembly [REDACTED] as follows: from the amount paid pursuant to paragraph 1 of this Agreement, L [REDACTED] shall be paid forty-six thousand three hundred and eighty-six dollars (\$46,386), and from the amount paid pursuant to paragraph 2 of this Agreement, L [REDACTED] shall be paid fourteen thousand, four hundred dollars (\$14,400).

7. From the amounts identified in paragraphs 1 and 2 of this Agreement, a total amount of twenty thousand, two hundred and sixty-two dollars (\$20,262) shall be paid to R [REDACTED] for alleged damages for pain and suffering in lieu of any other form of compensation in complete resolution of this dispute including but not limited to any form of wages, benefits or other potential frontpay or backpay liability. The payment of this amount is to be allocated between the New York State Assembly and Member of Assembly [REDACTED] as follows: from the amount paid pursuant to paragraph 1 of this Agreement, R [REDACTED] shall be paid fifteen thousand four hundred and sixty-two dollars (\$15,462), and from the amount paid pursuant to paragraph 2 of this Agreement, R [REDACTED] shall be paid four thousand, eight hundred dollars (\$4,800).
8. From the amounts identified in paragraphs 1 and 2 of this Agreement, the law firm of Cuti Hecker Wang LLP shall retain a total amount of twenty-seven thousand, six hundred and sixteen dollars (\$27,016) in complete resolution of any and all attorney fee obligations or liabilities in relation to any legal work performed in their representation, individually or collectively, of the Employees in relation to this dispute. The payment of this amount is to be allocated between the New York State Assembly and Member of Assembly [REDACTED] as follows: from the amount paid pursuant to paragraph 1 of this Agreement, Cuti Hecker Wang LLP shall retain the amount of twenty thousand six hundred and sixteen dollars (\$20,616), and from the amount paid pursuant to paragraph 2 of this Agreement, Cuti Hecker Wang, LLP shall retain the amount of six thousand, four hundred dollars (\$6,400).
9. From the amounts identified in paragraphs 1 and 2 of this Agreement, the law firm of Allred Maroko & Goldberg shall be paid a total amount of twenty-seven thousand, six hundred and sixteen dollars (\$27,016) in complete resolution of any and all attorney fee obligations or liabilities in relation to any legal work performed in their representation, individually or collectively, of the Employees in relation to this dispute. The payment of this amount is to be allocated between the New York State Assembly and Member of Assembly [REDACTED] as follows: from the amount paid pursuant to paragraph 1 of this Agreement, Allred Maroko & Goldberg shall be paid the amount of twenty thousand six hundred and sixteen dollars (\$20,616),

and from the amount paid pursuant to paragraph 2 of this Agreement, Allred Maroko & Goldberg shall be paid the amount of six thousand, four hundred dollars (\$6,400).

10. The parties agree that the payment to be made to the law firm of Cuti Hecker Wang LLP under paragraph 1 of this Agreement is made in settlement of the Employees' claims for compensatory damages and emotional distress, and pain and suffering claimed by the Employees plus attorneys fees, and that such payments do not constitute back pay, front pay, or salary and, accordingly, shall not be subject to any payroll taxes or deductions, income withholding taxes, social security taxes, or other taxes which customarily are deducted from and/or paid with respect to wages. In accordance with federal law, the payment to be made under paragraph 1 of this Agreement shall be reported to the law firm of Cuti Hecker Wang LLP on Internal Revenue Service Form 1099. Employees agree that any and all tax liabilities with respect to this payment shall be the sole responsibility of the Employees.

The New York State Assembly agrees to provide notice to the Employees of any issues raised by any authority in connection with the taxation of such payments and to work in good faith with Employees or their attorney or tax advisor should such issues arise with sufficient timeliness so that the Employees have an opportunity to object. If, for any reason, it is ultimately determined by any federal, state or local authority that the payment provided for in paragraph 1, any portion thereof, or any provisions of paragraphs 5, 6, 7, or 8 of this Agreement should have been subject to the withholding of taxes, the Employees agree that they shall assume all responsibility for the payment of any taxes, interest and/or penalties assessed in connection therewith, and that they shall indemnify and hold harmless the Assembly and the State of New York ("the State") from any liability with respect to any withholding obligation or payment of tax, interest, or penalties required to be paid by the Assembly and/or the State. Should the Assembly and/or the State receive any assessment or claim of assessment, the Assembly and/or the State, as applicable, will notify the Employees in writing within thirty (30) days of their respective receipt of any such assessment or claim of assessment, and the Employees agree that any payments for which they have assumed responsibility hereunder shall be paid in full within ninety (90) days.

after their receipt of a demand for payment, subject to any legitimate, good faith objections Employees may lodge with the relevant authority.

11. The tender and acceptance of employment by each of the Employees with the New York State Assembly during the period January 1, 2012 through June 6, 2012 and payment of wages and all benefits of employment to each of the Employees during such period shall be deemed as a portion of the consideration received by them in the settlement evidenced by this Agreement.
12. Both L [REDACTED] and R [REDACTED] will resign from New York State Assembly employment effective close of business June 6, 2012 by submitting separate irrevocable letters of resignation using the language specified in Exhibit "E". No further salary or other benefits of employment with the New York State Assembly shall be due, owed, or paid to either of the Employees except as payments of any sort earned for services provided during the period January 1, 2012 through June 6, 2012.
13. Each Employee agrees not to apply for any position with Member [REDACTED] or his office. Employees may apply to future positions with the New York State Assembly, but agree that if any such application or other effort at re-employment is rejected by any office of the Assembly or any Member of the Assembly, absent empirical, objective, demonstrable proof of actual discrimination or retaliation related to the Employees previous Assembly employment and/or the circumstances surrounding this Agreement, neither Employee will assert any such claim in any administrative or judicial forum.
14. Upon delivery to the New York State Assembly of a signed and notarized copy of the Release in Exhibit "A", L [REDACTED] will receive the attached "to whom it may concern", generic positive recommendation (Exhibit "F") concerning the performance of her tasks and duties assigned to her during her Assembly employment. In accordance with Assembly practice, inquiries from any potential employer, potential landlord, potential creditor, or other such person or entity will receive a response indicating [REDACTED] voluntary resignation, last job title, duration of Assembly employment, and annual salary. The designated person whom [REDACTED] should list



for such confirmation is Assembly Director of Human Resources Suzanne Gold.

15. Upon delivery to the New York State Assembly of a signed and notarized copy of the Release in Exhibit "B", R [REDACTED] will receive the attached "to whom it may concern", generic positive recommendation (Exhibit "G") concerning the performance of her tasks and duties assigned to her during her Assembly employment. In accordance with Assembly practice, inquiries from any potential employer, potential landlord, potential creditor, or other such person or entity will receive a response indicating [REDACTED] voluntary resignation, last job title, duration of Assembly employment, and annual salary. The designated person whom [REDACTED] should list for such confirmation is Assembly Director of Human Resources Suzanne Gold.
16. Member of Assembly [REDACTED] and the staff of the office of Member of Assembly [REDACTED] will, within 90 days of the execution of this Agreement receive supplementary instruction - in addition to that which is biennially provided to Members of the Assembly and staff - concerning the Assembly Affirmative Action Policy, the Assembly Sexual Harassment/Retaliation Policy, and identification and avoidance of sex discrimination and sexual harassment in the workplace. This training may be conducted in separate sessions. The New York State Assembly shall provide confirmation in writing to Cuti Hecker Wang LLP when the training has been done.
17. Except in response to a court order or in response to a valid subpoena or in connection with necessary disclosures to financial or tax advisors, or medical professionals, neither any party to this Agreement, nor any attorney, counsel, representative, heir, assign or other person affiliated with any party to this Agreement will discuss or make any statement of any sort concerning the underlying circumstances of the dispute which has given rise to this Agreement, the fact of this Agreement, or any terms of this Agreement with any other person or entity.
18. The Employees hereby agree, individually and collectively, that they shall not communicate or publish, or cause to be communicated or

published, any disparaging remarks, comments or statements in any form concerning any aspect, circumstance or incident involving their employment in the office of Member of Assembly [REDACTED] or any office(s) of the New York State Assembly.

19. [REDACTED] hereby agrees that he shall not communicate or publish, or cause to be communicated or published, directly or indirectly through others, any disparaging remarks, comments or statements in any form concerning any aspect, circumstance or incident involving L [REDACTED] and/or R [REDACTED] including without limitation each such individual's employment with his office.

20. [REDACTED] and the New York State Assembly agree that neither will contest any application for unemployment that Employees may choose to file with the Department of Labor but in no event shall either be understood to be required to provide any information that is not truthful and consistent with this Agreement.

21. Each of the Employees and Member of Assembly [REDACTED] agrees that each shall be entitled to liquidated damages of \$20,000 or actual and punitive damages, whichever is greater, as determined in an arbitration proceeding before Margaret Shaw, or if she is unavailable, another mutually agreed upon JAMS neutral, from the opposing party for each breach of paragraphs 17, 18 or 19 of this Agreement, and any such breach of paragraphs 17, 18 or 19 shall be considered a material breach. The Employees and Member of Assembly [REDACTED] in agreeing to adjudicate any such claims in arbitration hereby expressly waive any right to commence any action in any other judicial or administrative forum and expressly waive the right to a jury trial concerning such matters. They further agree that an award may be made under this provision only if the moving party establishes by clear and convincing evidence that a breach of one of the relevant provisions has occurred and there is at least some minimal showing of actual injury to the party's reputation. Even if the minimal showing of injury does not raise to the level of damage in any particular dollar amount, the relevant parties expressly agree by this provision that at least a \$20,000 award shall be made. A minimal showing may be made or presumed by the factfinder based on the particular circumstances of the breach.

22. Any claim, action, suit or other dispute relating to any terms of this Agreement or the Releases entered into pursuant to this Agreement shall be commenced in the City of New York and governed by the provisions of the laws of the State of New York.
23. Any document required by this Agreement to be delivered to the New York State Assembly shall be delivered to William F. Collins, Counsel to the Majority, New York State Assembly, Room 448M, Capitol, Albany, New York 12248; e-mail [collinsw@assembly.state.ny.us](mailto:collinsw@assembly.state.ny.us); and/or telefax 518-455-4103.
24. The Employees hereby expressly acknowledge, individually and collectively, that they are signing this Agreement knowingly and voluntarily and upon the advice of the Law Firms by which they are and have been represented.
25. This Agreement may be signed in counterparts and any telefaxed or electronically transmitted signed copy of this Agreement will be equally as valid for all purposes as an original signed copy.
26. Nothing contained herein shall be deemed to imply or to constitute an admission of any sort that any party to this Agreement acted improperly or unlawfully.
27. The parties shall take such other and further steps as are necessary to implement the terms of this Agreement including, but not limited to, submitting this Agreement to the Office of the State Comptroller for pre-audit, pursuant to the power conferred on the Comptroller by the State Constitution, of the payment required by paragraph 1.

IN WITNESS WHEREOF, the parties and their representatives have hereunto set their hands.

[REDACTED]  
[REDACTED]  
Date: [REDACTED]

William F. Collins  
NEW YORK STATE ASSEMBLY

By: WILLIAM F. COLLINS  
(Print Name)

TITLE: Counsel to the Majority

[REDACTED]  
[REDACTED]  
Date: [REDACTED]

Date: June 6, 2012

CUTI HECKER WANG LLP

By: \_\_\_\_\_  
(Print Name)

[REDACTED]  
MEMBER OF ASSEMBLY [REDACTED]

Date: 6/6/12

Date: \_\_\_\_\_

ALLRED MAROKO & GOLDBERG

By: \_\_\_\_\_

Date: \_\_\_\_\_

## Exhibit "A"

RELEASE

I, [REDACTED] on behalf of herself, her heirs, estate, executors, administrators, successors and assigns, in consideration of receipt of the lump sum of sixty thousand, seven hundred and eighty-six dollars (\$60,786) received, in toto, from the New York State Assembly and Member of Assembly [REDACTED] collectively, and in consideration of the other promises and covenants set forth in the attached Agreement releases and discharges the State of New York and Member of Assembly [REDACTED] from any and all actions, causes of action, suits, agreements, promises, damages, judgment, complaints, claims and demands under Title VII of the Civil Rights Act of 1964, the New York State Executive Law, or the New York City Human Rights Act including but not limited to claims for gender, sex, race, age, religious and any other protected characteristics, sexual harassment, retaliation as well as any other actions, causes of action, suits, agreements, promises, damages, judgment, complaints, and demands of any sort under any other statutes, contract or tort law in law or equity, whether arising under the laws of the State of New York or any other jurisdiction, arising out of or relating to the employment of I, [REDACTED] by the Assembly of the State of New York and/or Member of Assembly [REDACTED]

IN WITNESS WHEREOF, I, [REDACTED] has hereunto set her hand on this \_\_\_\_ day of \_\_\_, 2012.

[REDACTED]

STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

On the \_\_\_\_ day of \_\_\_\_\_, 2012, before me personally came I, [REDACTED] to me known, and known to me to be the individual described in, and who executed the foregoing Release, and duly acknowledged to me that she executed the same.

\_\_\_\_\_

Exhibit "B"

RELEASE

R [REDACTED] on behalf of herself, her heirs, estate, executors, administrators, successors and assigns, in consideration of receipt of the lump sum of twenty thousand, two hundred and sixty-two dollars (\$20,262) received, in toto, from the New York State Assembly and Member of Assembly [REDACTED] collectively, and in consideration of the other promises and covenants set forth in the attached Agreement releases and discharges the State of New York and Member of Assembly [REDACTED] from any and all actions, causes of action, suits, agreements, promises, damages, judgment, complaints, claims and demands under Title VII of the Civil Rights Act of 1964, the New York State Executive Law, or the New York City Human Rights Act including but not limited to claims for gender, sex, race, age, religious and any other protected characteristics, sexual harassment, retaliation as well as any other actions, causes of action, suits, agreements, promises, damages, judgment, complaints, and demands of any sort under any other statutes, contract or tort law in law or equity, whether arising under the laws of the State of New York or any other jurisdiction, arising out of or relating to the employment of [REDACTED] by the New York State Assembly and/or Member of Assembly [REDACTED].

IN WITNESS WHEREOF, R [REDACTED] has hereunto set her hand on this \_\_\_\_ day of \_\_\_\_, 2012.

STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_

On the \_\_\_\_ day of \_\_\_\_\_, 2012, before me personally came R [REDACTED] to me known, and known to me to be the individual described in, and who executed the foregoing Release, and duly acknowledged to me that she executed the same.

Exhibit "C"

RELEASE

██████████ on behalf of himself, his heirs, estate, executors, administrators, successors and assigns, in consideration of receipt of one dollar (\$1.00) and of the other promises and covenants set forth in the attached Agreement releases and discharges each ██████████ and ██████████ each individually and separately from any and all actions, causes of action, suits, agreements, promises, damages, judgment, complaints, claims and demands under Title VII of the Civil Rights Act of 1964, the New York State Executive Law, or the New York City Human Rights Act including but not limited to claims for any and all actions, causes of action, suits, agreements, promises, damages, judgment, complaints, and demands of any sort under any other statutes, contract or tort law in law or equity, whether arising under the laws of the State of New York or any other jurisdiction, arising out of or relating to the employment of L ██████████ and/or R ██████████ by the State of New York, the Assembly of the State of New York and/or Member of Assembly ██████████ and/or any and all allegations, claims, or statements made by each L ██████████ or R ██████████

IN WITNESS WHEREOF, ██████████ has hereunto set his hand on this 6<sup>th</sup> day of June, 2012.

STATE OF NEW YORK  
COUNTY OF New York

On the 6<sup>th</sup> day of June, 2012, before me personally came ██████████ to me known, and known to me to be the individual described in, and who executed the foregoing Release, and duly acknowledged to me that he executed the same.

FAITH A. FRIEDMAN  
NOTARY PUBLIC - NEW YORK STATE  
02F802066  
QUALIFIED IN NEW YORK COUNTY  
MY COMMISSION EXPIRES 4/25/2015

Exhibit "D"

RELEASE

William F. Collins, on behalf of the New York State Assembly, in consideration of receipt of one dollar (\$1.00) and of the other promises and covenants set forth in the attached Agreement, releases and discharges each L [REDACTED] and R [REDACTED] individually and separately from any and all actions, causes of action, suits, agreements, promises, damages, judgment, complaints, claims and demands under Title VII of the Civil Rights Act of 1964, the New York State Executive Law, or the New York City Human Rights Act including but not limited to claims for any and all actions, causes of action, suits, agreements, promises, damages, judgment, complaints, and demands of any sort under any other statutes, contract or tort law in law or equity, whether arising under the laws of the State of New York or any other jurisdiction, arising out of or relating to the employment of L [REDACTED] and/or R [REDACTED] by the State of New York, the Assembly of the State of New York and/or Member of Assembly [REDACTED] and/or any and all allegations, claims, or statements made by each L [REDACTED] or R [REDACTED]

IN WITNESS WHEREOF, William F. Collins has hereunto set his hand on this 6<sup>th</sup> day of June, 2012.

William F. Collins  
WILLIAM F. COLLINS

STATE OF NEW YORK  
COUNTY OF ALBANY

On the 6<sup>th</sup> day of June, 2012, before me personally came WILLIAM F. COLLINS, to me known, and known to me to be the individual described in, and who executed the foregoing Release, and duly acknowledged to me that he executed the same.

Linda A. Van Amerongen

LINDA A. VAN AMERONGEN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01YAG025563  
Qualified in Albany County  
My Commission Expires March 2015



EXHIBIT "E"

Ms. Suzanne Gold  
Director of Human Resources  
New York State Assembly  
Concourse, Room 104  
Albany, New York 12248

Dear Ms. Gold:

Effective close of business on June 6, 2012, I hereby voluntarily resign my position with the New York State Assembly.

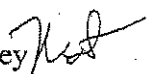
Very truly yours,

OFFICE OF THE STATE COMPTROLLER

INTER-OFFICE MEMORANDUM

To: File

Date: June 14, 2012

From: Mary Anne Tommaney 

Subject: SF 20120187

---

Bill Collins sent Nancy a draft of a settlement agreement resolving an employment dispute involving two Assembly staff members. JKD and I spoke with Bill Collins on 5/31/12, to get a better understanding of how the proposed settlement amounts had been arrived at.

Bill told us that the settlement payments represent (i) compensatory damages for emotional distress, and (ii) attorneys' fees. Specifically, he advised us that:

- The payments to the employees are not intended to replace lost salary; to result in a quick resolution so as to avoid adverse publicity; or to address any purpose other than compensating the individuals for the emotional distress they have suffered.
- Of the two employees receiving payments, the one getting the greater amount was the lesser paid of the two.
  - This would be an indication that the settlement figures were not arrived at by taking into account the employees' salaries, and then extrapolating a settlement amount that would be in the nature of front pay. (Back pay does not come into play here at all, since neither employee will be taken off the payroll until the agreement is signed).
  - This would support Bill's assertion that the payments are compensatory damages, rather than lost wages.
- Of the two employees, the one getting the greater amount had allegedly been subjected to much more egregious harassment, and over a longer period of time (the employee getting paid more was longer term than was the employee getting paid the lesser amount).

- This would further support Bill's assertion that the payments in fact represent damages for emotional distress, rather than lost wages.
- After having reviewed the proposed settlement with AAG Arlene Smoller, Bill understands that the State's potential exposure, had the matter been litigated, would have been considerably greater than the amounts under discussion. (In a later conversation we had with Arlene, she confirmed that this was the case).

Based on the considerations discussed above, we concluded that it was reasonable for the full amount of the settlement to be allocated to damages for emotional distress and attorneys' fees, and that no part of the monies to be paid would need to be characterized as wages.

We considered whether State Finance Law §8(12)ff would prohibit this payment because it is in excess of the dollar limitations of the statute. We note, however, that Section 8(12) notwithstanding any inconsistent provision of the Court of Claims Act. This is indication that the dollar limitations prescribed are intended to carve out small tort claims that would otherwise be subject to Court of Claims jurisdiction, and permit payment of such claims without the claimants having first proceeded to litigation. Arlene Smoller confirmed to us that the claims at issue here would not be subject to Court of Claims jurisdiction. Thus, arguably, SFL §8(12) would not be an impediment to payment.

We told Bill that it was important for the Settlement Agreement to articulate the nature and purpose of the payment, i.e. to clarify what Bill confirmed to us as being the parties' intention that the payment is to compensate the employees for emotional distress, rather than lost wages. We suggested language (see below) to be incorporated in the agreement.

This week, Bill provided Nancy with a signed copy of the agreement, which provides that payment of the entire amount payable by the Assembly is to be made by check to the law firm representing one of the employees. The agreement incorporates the language we requested. Consistent with our advice to Bill, the full amount of the payment will be reported on a Form 1099 to the payee law firm.

#### Substitute for paragraph 9

9. The parties agree that the payment to be made to the law firm of Cuti Hecker Wang LLP under paragraph 1 of this Agreement is made in settlement of the Employees' claims for compensatory damages and emotional distress, and pain and suffering claimed by the Employees, and that such payments do not constitute back pay, front pay, or salary and, accordingly, shall not be subject to any payroll taxes or deductions, income withholding taxes, social security taxes, or other taxes which customarily are deducted from and/or paid with respect to wages. In accordance with federal law, the payment to be made under paragraph 1 of this Agreement shall be reported to the law firm of Cuti Hecker Wang LLP on Internal Revenue Service Form 1099. The parties agree that any and all

tax liabilities with respect to this payment shall be the sole responsibility of the Employees and the Law Firms.

If, for any reason, it is determined by any federal, state or local authority that the payment provided for in paragraph 1, or any portion thereof, should have been subject to the withholding of taxes, the Employees and the Law Firms agree that they shall assume all responsibility for the payment of any taxes, interest and/or penalties assessed in connection therewith, and that they shall indemnify and hold harmless the Assembly and the State of New York ("the State") from any liability with respect to any withholding obligation or payment of tax, interest, or penalties required to be paid by the Assembly and/or the State. Should the Assembly and/or the State receive any assessment or claim of assessment, the Assembly and/or the State, as applicable, will notify the Employees and the Law Firms in writing within thirty (30) days of their respective receipt of any such assessment or claim of assessment, and the Employees and the Law Firms agree that any payments for which they have assumed responsibility hereunder shall be paid in full within ninety (90) days after their receipt of a demand for payment.

Substitute for paragraph 23

23. The parties shall take such other and further steps as are necessary to implement the terms of this Agreement including, but not limited to, submitting this Agreement to the Office of the State Comptroller for pre-audit, pursuant to the power conferred on the Comptroller by the State Constitution, of the payment required by paragraph

FW: DiNapoli's Office Distances Itself From Lopez Scandal  
 William Collins  
 to:  
 NGroenwegen  
 08/30/2012 05:24 PM  
 Show Details

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**From:** William Collins [<mailto:collinw@assembly.state.ny.us>]  
**Sent:** Thursday, August 30, 2012 5:06 PM  
**To:** 'Michael Whyland'  
**Subject:** RE: DiNapoli's Office Distances Itself From Lopez Scandal

This is not true. I never discussed any income tax implications with Nancy Groenwegen. I did discuss, on more than one occasion, the possibility of a settlement in an alleged sexual harassment circumstance in which litigation had not been commenced; that I was in conversations with Deputy AG Smoller (who Nancy knew) and; that I believed based upon the conversations with Ms. Smoller and other labor lawyers that a settlement in the \$100,000 range was reasonable and rational. Nancy told me that there had been at least one other circumstance in which a state agency had settled a claim before any litigation had been initiated and that they, OSC, would be inclined to touch base with the AG's office informally to feel comfortable that the amount of such a pre-litigation settlement (in which, by law - POL §17 - the AG's office was not appearing as counsel). I told Nancy that was fine with me in that Deputy AG Smoller had already agreed, based upon my hypothetical fact pattern, that a low 6-figure settlement was in a reasonable ballpark. When I sent the Third Draft Settlement Agreement to Nancy, she sent it directly to her lawyers who were most familiar with the payment process, how settlement language needed to be expressed, whether there needed to be tax withholding in relation to back-or front-pay, etc. Those were the only specific concepts and provisions that I discussed with those two lawyers in OSC Counsel's office.

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**From:** Michael Whyland [<mailto:whylandm@assembly.state.ny.us>]  
**Sent:** Thursday, August 30, 2012 4:45 PM  
**To:** 'William Collins'  
**Subject:** FW: DiNapoli's Office Distances Itself From Lopez Scandal

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**From:** Juan Gabriel Genao [<mailto:genaoj@assembly.state.ny.us>]  
**Sent:** Thursday, August 30, 2012 4:34 PM  
**To:** undisclosed-recipients:  
**Subject:** SoP: DiNapoli's Office Distances Itself From Lopez Scandal

## DiNapoli's Office Distances Itself From Lopez Scandal

Aug 30th - 4:17 pm

Posted by Nick Reisman in Assembly

Comptroller Tom DiNapoli's office has (finally) released a statement aimed at explaining its role in the growing sexual harassment scandal surrounding Assemblyman Vito Lopez.

The Democratic-led Assembly authorized a \$103,000 settlement that was signed off on by DiNapoli's office. But DiNapoli's office in a statement released this afternoon says it was not part of the settlement negotiations and the comptroller himself was no aware of it.

Their statement:

On June 13, 2012, the Office of the State Comptroller processed an electronic payment voucher for legal services for the Assembly. Prior to this, Assembly Majority Counsel William Collins contacted OSC General Counsel Nancy Groenwegen regarding a pending legal settlement with questions related to income tax implications. We were not asked nor did we provide any opinion on the merits of the settlement. The Comptroller's office was not a party to the negotiations. At no time was this matter brought to the Comptroller's personal attention.

## Nancy Groenwegen

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**From:** "William Collins" <collinsw@assembly.state.ny.us>  
**Date:** Friday, August 31, 2012 2:17 PM  
**To:** <ngroenwegen@assembly.state.ny.us>  
**Subject:** FW: conversations with OSC Counsel's Office

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**From:** William Collins [mailto:collinsw@assembly.state.ny.us]  
**Sent:** Friday, August 31, 2012 12:33 PM  
**To:** 'yatesj@assembly.state.ny.us'  
**Cc:** 'Carolyn Kearns'  
**Subject:** conversations with OSC Counsel's Office

[Nancy Groenwegen is my personal friend. I have known her for almost 30 years. I respect her so much as a person and attorney that I have recommended her for significant positions in NYS government. I do not want to get into a personal pissing match with her and do not believe she would ever lie about or misconstrue a conversation with me.]

Shortly after the notion of a potential mediated settlement with the state paying some money was considered, I took it upon myself to touch base with Nancy informally. I talked to her about a hypothetical situation in which the AG was not representing the Assembly or a Member (so, this was probably after my initial phone conversation(s) with Arlene because I knew they wouldn't be appearing). I discussed the notion of a settlement agreement and how OSC would adjudge whether the amount of any such settlement was a fiscally prudent expenditure of state monies. I broadly spoke about the kind of case and the potential legal forums into which the Assembly and a Member may be dragged. She said that in an earlier state agency matter - I think maybe SUNY - in which litigation had not been commenced and the AG did not represent the agency, the reasonableness of a settlement amount had been "run-by" the AGs office. I believe I used the term "honest broker" but, that was certainly the concept. The AGs litigation experts - we both agreed that Arlene Smoler was such a person - had been consulted and would likely be consulted. That was all we discussed.

I called her months later, as we were in mediated negotiations, and reminded her of our earlier conversation. She vaguely recalled that we had had such a discussion. I do not recall whether it was in this conversation or in the earlier conversation in which I actually mentioned the potential order-of-magnitude of a settlement as being in the low-six-figures and that Arlene Smoler hadn't considered that unreasonable under the circumstances I had described to her. I told her I'd keep her posted. At this point, I was thinking maybe OSC would have to actually see the final agreement (they, ultimately, neither saw it nor asked for it).

Finally, on May 30, as we were getting closer to finishing our negotiations, I called Nancy and said I was e-mailing a draft (and subsequently, another draft) agreement. She said she was forwarding this stuff to John Dalton - known by me to be a very experienced OSC lawyer with whom I had dealt on issues over the course of 35 years. John got the draft and asked for time to look at it. Although I was getting antsy because I thought the parties were on the brink of concluding the deal, I had always said in mediation and in negotiations that final language and concepts would be subject to some OSC and AG review (I really didn't know how much review but, I wanted to give us room for changes that either of those offices might want). John and Maryann Tommaney (another lawyer at OSC and my law school classmate) got back to me with a lot of questions about what the state money represented. If it was an amount equal to frontpay or backpay, OSC might have to withhold taxes before they paid on the settlement. I assured them that these monies were for alleged pain and suffering. Ultimately, after more discussion than I wanted to have under what I conceived to be time pressure to close the deal while the parties were ready to close, they suggested some changes to the method of payment clauses which I adopted.

I never had any discussion with any OSC lawyer about the confidentiality clause. I believe Nancy directly forwarded my drafts to John Dalton to handle technical advice and she told me she didn't look at my drafts. I believe her.